

ROBERT BRENNAN

IBLA 82-1080

Decided September 23, 1982

Appeal from decision of the California State Office, Bureau of Land Management declaring unpatented mining claim abandoned and void. CA MC 47944.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Affidavit of Assessment Work or Notice of Intention to Hold Mining Claim -- Mining Claims: Recordation

Sec. 314 of the Federal Land Policy and Management Act of 1976 and 43 U.S.C. § 1744 (1976), requires the owner of an unpatented mining claim to file a notice of intention to hold the claim or evidence of assessment work prior to Dec. 31 of each year in the proper office of the Bureau of Land Management. Failure to file the required instrument within the prescribed time period is conclusively deemed to constitute an abandonment of the claim.

APPEARANCES: Robert Brennan, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Robert Brennan appeals a decision of the California State Office, Bureau of Land Management (BLM), dated June 11, 1982, which declared the unpatented Lewis Quartz lode mining claim, CA MC 47944, abandoned and void because no evidence of assessment work or notice of intention to hold the mining claim was filed with BLM on or before December 30, 1980, as required by 43 CFR 3833.2-1.

The claim was located on January 29, 1956, by T. E. and Marian Hunt who conveyed it to appellant via quitclaim deed on August 15, 1979. Appellant recorded the claim with the county recorder on August 22, 1979, and with BLM on October 12, 1979. The record indicates that no evidence of annual assessment work or notice of intention to hold was filed with BLM on or before December 30, 1980.

[1] Sec. 314 of the Federal Land Policy and Management Act of 1976 and the implementing regulations, 43 CFR 3833.2-1 and 3833.4, require that the owner of an unpatented mining claim located on public land file evidence of annual assessment work or a notice of intention to hold in the proper BLM office on or before December 30 of each calendar year, under penalty of a conclusive presumption that the claims have been abandoned if the documents are not timely or properly filed. Since the record indicates that no evidence of annual assessment work or notice of intention to hold was filed with BLM on or before December 30, 1980, BLM properly declared the claim abandoned and void. This Board has no authority to waive noncompliance with the statutory requirements. Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981).

Appellant should confer with BLM about the possibility of relocating this claim.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Anne Poindexter Lewis
Administrative Judge

Gail M. Frazier
Administrative Judge

